

REMARKS

Reconsideration of this application is respectfully requested in view of the amendments made above and the remarks contained herein.

STATUS OF CLAIMS AND SUPPORT FOR AMENDMENT

Upon entry of this amendment, claims 1, 3-5, 10, 13-22, 24, 40, and 42 will be pending in this application. Claims 2, 6-9, 11, 12, 23, 25-39, 41, and 43 have been canceled without prejudice to, or disclaimer of, their subject matter. Claims 19-22, 24, 40, and 42 have been allowed. Accordingly, claims 1, 3-5, 10, and 13-18 are presently being examined on the merits.

The present amendment incorporates the features of claims 2 and 6 into claim 1, and therefore should not raise new issues requiring further consideration and/or search, or the issue of new matter. Moreover, for the reasons given below, Applicants submit that the present amendment places the application into condition for allowance, or into materially better form for appeal, and should be entered on these bases under 37 C.F.R. § 1.116(b).

CLAIM OBJECTIONS

Without agreeing to the propriety of the objections to claims 12, 23, and 41 set forth in paragraph 2 of the Office action dated March 18, 2009, Applicants submit that these objections are moot in view of the cancellation of these claims.

REJECTION UNDER 35 U.S.C. § 101

In paragraph 3 of the Office action dated March 18, 2009, the Office has rejected claims 1-7 and 10-18 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants respectfully traverse this rejection for the reasons given below.

The Office states:

While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, at least the obtaining step of the claims is not explicitly recited as tied to another statutory category that accomplishes the claimed method step (see *Response to Arguments* below).

Office action dated March 18, 2009 at page 3.

Applicants do not agree that the analysis and rationale applied by the Office are correct. Nevertheless, Applicants respectfully submit that even under the Office's analysis, the claims are directed to statutory subject matter. Claim 1 recites that the "obtaining" step is sufficiently tied to the a measurement sensor or to an interface. Both of these features are well recognized as "devices" or apparatus, and consequently the Office's assertions that Applicants' method claims are not "positively [tied] to another statutory category that accomplishes the claimed method steps" are incorrect. For at least this reason, Applicants submit that the Office's rejection should be withdrawn.

Applicants submit that, for the above reasons, this amendment places this application into condition for immediate allowance, and should be entered for that reason. Alternatively, this amendment removes issues for appeal without raising new issues, and therefore places this application into better form for appeal, and should be entered on that basis.

REQUEST FOR INTERVIEW


Applicants respectfully request that Examiner Caschera contact the undersigned to arrange for a personal or telephonic interview to discuss the above amendment and any further issues that remain in connection with this application.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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